LIBRARY
SUPREME COURT. U. S.

Office - Supreme Court, U.S.
FILED
FEB 14 1958
JOHN T. FEY, Clerk

No. 732

In the Supreme Court of the United States

OCTOBER TERM, 1957

UNITED STATES OF AMERICA, EX REL. STATE OF WISCONSIN, PETITIONER

v.

FIRST FEDERAL SAVINGS & LOAN ASSOCIATION AND FEDERAL HOME LOAN BANK BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR RESPONDENT FEDERAL HOME LOAN BANK BOARD IN OPPOSITION

J. LEE RANKIN,
Solicitor General,
JOSEPH D. GUILFOYLE,
Acting Assistant Attorney General,
MORTON HOLLANDER,
Attorney,
Department of Justice,
Washington 25, D. C.

INDEX

	Page
Opinions below	1
Jurisdiction	1
Question presented	2
Statutes and regulations involved	2
Statement	3
Argument	5
Conclusion	14
Appendix	15

CITATIONS

Cases:

Amchanitzky v. *Sinnott*, 69 F. 2d 97	7
Ames v. *Kansas*, 111 U. S. 449	5, 9
Booth v. *Fletcher*, 101 F. 2d 676, certiorari denied, 307 U. S. 628	8
Brooks v. *Dewar*, 313 U. S. 354	14
Confiscation Cases, 7 Wall. 454	8
Covington and Cincinnati Bridge Co. v. *Hager*, 203 U. S. 109	7
Edgerly v. *Kennelly*, 215 F. 2d 420, certiorari denied, 348 U. S. 938	7
First Federal Savings & Loan Ass'n v. *Loomis*, 97 F. 2d 831, certiorari granted, 305 U. S. 564, writ dismissed on motion of petitioners, 305 U. S. 666	8
First National Bank of McKeesport v. *First Federal Sav. & L. Ass'n*, 225 F. 2d 33	11
Franklin Nat. Bank v. *New York*, 347 U. S. 373	13
Grace Line v. *Panama Canal Company*, 243 F. 2d 844, pending on writ of certiorari, Nos. 251, 252, this Term	9
Knapp v. *Lake Shore Railway Co.*, 197 U. S. 536	7
Marshall v. *Crotty*, 185 F. 2d 622	7
Morin v. *City of Stuart*, 111 F. 2d 773	6
Newman v. *United States ex rel. Frizzell*, 238 U. S. 537	6
North Arlington Nat. Bank v. *Kearny Fed. Sav. & L. Ass'n*, 187 F. 2d 564, certiorari denied, 342 U. S. 816	11, 12, 13

Cases—Continued

	Page
Petrowski v. *Nutt*, 161 F. 2d 938, certiorari denied, 333 U. S. 842	7
Springfield Institution for Sav. v. *Worcester Fed. Savings & Loan Assn.*, 329 Mass. 184, 107 N. E. 2d 315, certiorari denied, 344 U. S. 884	11, 12, 13
State ex rel. Cleary v. *Hopkins Street B. & L. Asso.*, 217 Wis. 179, 257 N. W. 684, affirmed, 296 U. S. 315	9
United States v. *Morris*, 10 Wheat. 246, affirming Fed. Cas. No. 15,816	8
United States v. *San Jacinto Tin Co.*, 125 U. S. 273	8
United States ex rel. West v. *Doughty*, Fed. Cas. No. 14,986	8
Statutes and Regulations:	
Act of March 3, 1901, 31 Stat. 1189, 1419–20	6
Home Owners' Loan Act of 1933, Act of June 13, 1933, 48 Stat. 128, 12 U. S. C. 1461, *et seq*	3
Sec. 1 (12 U. S. C. 1461)	15
Sec. 2 (a) (12 U. S. C. 1462 (a))	15
Sec. 2 (d) (12 U. S. C. 1462 (d))	15
Sec. 5 (a) (12 U. S. C. 1464 (a))	13, 15
Sec. 5 (c) (12 U. S. C. 1464 (c))	15
Sec. 5 (d) (1) (12 U. S. C., Supp. IV, 1464 (d) (1))	16
Sec. 5 (e) (12 U. S. C. 1464 (e))	16
Judicial Code of 1911, 36 Stat. 1087, 1168	6
Judicial Code (as revised, 1948), Act of June 25, 1948, 62 Stat. 869, 992–3	6
Rev. Stat., §§ 563 (14), 629 (14), 1786	6
5 U. S. C. 309, 316	8
28 U. S. C. 507	8
28 U. S. C. 1345	2, 5, 6, 7, 9
28 U. S. C. 1651 (a)	2, 5, 6, 7
District of Columbia Code (1951 ed.), § 16–1601	6
Wisconsin Stats., § 215.02 (20)	12
Federal Home Loan Bank Board Regulations, 24 C. F. R. 141.1, *et seq*	3
24 C. F. R. 145.13	16
24 C. F. R. 145.14	10, 17
24 C. F. R. 145.15	3, 4, 10, 17

In the Supreme Court of the United States

OCTOBER TERM, 1957

No. 732

UNITED STATES OF AMERICA, EX REL. STATE OF WISCONSIN, PETITIONER

v.

FIRST FEDERAL SAVINGS & LOAN ASSOCIATION AND FEDERAL HOME LOAN BANK BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR RESPONDENT FEDERAL HOME LOAN BANK BOARD IN OPPOSITION

OPINIONS BELOW

The opinion of the United States District Court for the Eastern District of Wisconsin (R. 47)[1] is reported at 151 F. Supp. 690. The opinion of the Court of Appeals for the Seventh Circuit (Pet. 21) is reported at 248 F. 2d 804.

JURISDICTION

The judgment of the court of appeals was entered on October 21, 1957. The petition for a writ of cer-

[1] Record references are to the pages of the printed "Appendix for Plaintiff-Appellant" filed by petitioner in this Court.

tiorari was filed on January 18, 1958. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

QUESTION PRESENTED

This is a *quo warranto* action filed by the State of Wisconsin in the name of the United States to challenge the right of a federally chartered savings and loan association to establish certain limited agency offices away from its main office. Since the Regulations of the Federal Home Loan Bank Board, which chartered the association, explicitly authorize the association to establish such additional offices, the United States Attorney General rejected Wisconsin's demand that he institute the present *quo warranto* action. Wisconsin then filed the action in the name of the United States.

The question presented is whether the court below, which expressly noted its agreement with the trial court's holding that the Regulation was valid, correctly held that because of the absence of any specific statutory authority the district court had no jurisdiction over the *quo warranto* action.

STATUTES AND REGULATIONS INVOLVED

1. The provisions of 28 U. S. C. 1345 and 28 U. S. C. 1651 (a), upon which petitioner relies to sustain the trail court's jurisdiction, are set forth at page 3 of the petition.

2. The relevant provisions of the Home Owners' Loan Act of 1933 (Act of June 13, 1933, 48 Stat. 128, 12 U. S. C. 1461, *et seq.*) and of the Regulations of the Federal Home Loan Bank Board are set forth in the Appendix *infra*, pp. 15–18.

STATEMENT

This *quo warranto* action was filed by the State of Wisconsin, in the name of the United States, against respondent First Federal Savings and Loan Association of Milwaukee in the United States District Court for the Eastern District of Wisconsin (R. 2; Pet. 4). First Federal is a savings and loan association which operated from 1934 to 1954 at a single office in Milwaukee under a charter granted by the Federal Home Loan Bank Board pursuant to the Home Owners' Loan Act of 1933 (Act of June 13, 1933, 48 Stat. 128, 12 U. S. C. 1461, *et seq.* *infra*, p. 15) and the Board's Regulations under that Act (24 C. F. R. 141.1, *et seq.*; R. 5, 49; *infra*, p. 16).

In 1954, First Federal, in accordance with rights expressly conferred by the Regulations (24 C. F. R. 145.15, *infra*, p. 18), established three limited agency offices in Milwaukee for the servicing of mortgage loans and contracts (R. 50, 57, note 1). These limited agencies, in servicing the loans, kept loan files and received monthly payments on the loans (R. 50). Loans themselves were not negotiated at the limited agencies (R. 50). Nor were applications for loans taken at these agencies; they were always referred to the main office (R. 50). Similarly, the three agencies rendered no service at all in connection with the "savings" aspect of First Federal's business (R. 50). All "savings share" transactions, including applications for accounts, opening of accounts, and deposits to such accounts, were handled exclusively at the main office (R. 50).

The stated purpose of Wisconsin's action was "to test" First Federal's right "to establish [these] three additional [agency] offices away from its main office" (Pet. 4; R. 50). Since Wisconsin's suit directly involved the validity of the Regulation pursuant to which First Federal had established the agencies (24 C. F. R. 145.15, *infra*, p. 17), respondent Federal Home Loan Bank Board intervened in the action (R. 1, 6, 46).

On the facts set forth above, Wisconsin moved for summary judgment, asserting that the Regulation is beyond the "powers delegated to the Home Loan Bank Board by Congress," "is an invalid subdelegation of the powers of the board", and is in conflict with "sec. 215.02 (20) of the Statutes of the State of Wisconsin" which prohibits savings and loan associations from maintaining "any branch offices, paying or receiving stations, [or] agencies" (R. 6, 7, 44). First Federal and the Board then moved to dismiss the action (R. 14, 23).

The trial court assumed, without deciding, that it had jurisdiction over the *quo warranto* action (R. 52–53; Pet. 23). Reaching the merits, the court, after a thorough review of the pertinent authorities, found "that in fact [First Federal] did establish [the] agencies [in question] rightfully and legally and in pursuance of a valid Regulation, Section 145.15" (R. 67–68). Accordingly, the court granted First Federal's and the Board's motions to dismiss and denied Wisconsin's motion for summary judgment (R. 68).

The court of appeals affirmed (Pet. 29). It expressly noted its "accord with the district court's" holding that the Regulation was valid (Pet. 24). However, the court of appeals ruled that, since no statute conferred jurisdiction, the *quo warranto* action should have been dismissed by the district court for want of jurisdiction (Pet. 28–29).

ARGUMENT

The holding below that the district court lacked jurisdiction over this *quo warranto* proceeding is, we believe, plainly correct. Petitioner, in challenging that holding, relies primarily on 28 U. S. C. 1345 and 1651 (a) and on an asserted conflict with this Court's opinion in *Ames* v. *Kansas*, 111 U. S. 449 (Pet. 6–9). We show below that the statutory provisions have no application here and that the conflict is illusory. In any event, the decision below is supportable on a ground completely independent of the jurisdictional question. There is, therefore, no reason to resolve the asserted conflict since the complaint cannot lead to ultimate recovery or relief.

1. The jurisdiction of a federal district court is, of course, limited to that which has been expressly conferred by act of Congress. It is equally clear that, with the exception of District of Columbia courts, there is no statute conferring *quo warranto* jurisdiction on the federal district courts.[2] It follows, as ob-

[2] The history of the federal statutes pertaining to original *quo warranto* jurisdiction confirms the fact that such jurisdiction may be exercised by the United States District Court for the District of Columbia and by no other federal court. The Revised Statutes of 1878 specifically vested both the di-

served by the court below, that there is no original jurisdiction in the federal district court to entertain an information in the nature of *quo warranto* (Pet. 28). See *Morin* v. *City of Stuart,* 111 F. 2d 773, 775 (C. A. 5) (holding that the federal district courts "have not the right to exercise the quo warranto jurisdiction").

Wisconsin, in endeavoring to escape the impact of this jurisdictional bar, relies on the "all-writs" statute, 28 U. S. C. 1651 (a), and on 28 U. S. C. 1345, relating to suits filed by the United States (Pet. 8). Neither

---

trict courts and the former circuit courts with jurisdiction of proceedings in *quo warranto* brought by a United States Attorney for the removal of persons holding office contrary to the Fourteenth Amendment (*i. e.*, persons who had engaged in insurrection against the United States). Rev. Stat., §§ 563 (14), 629 (14), 1786. This grant of *quo warranto* jurisdiction to lower courts generally was repealed, however, by the Judicial Code of 1911, 36 Stat. 1087, 1168. And the duty imposed on United States Attorneys to bring *quo warranto* proceedings of the type authorized by the Revised Statutes was repealed by the 1948 revision of the Judicial Code. Act of June 25, 1948, 62 Stat. 869, 992–3.

In the meantime, Congress enacted in 1901 a code of law for the District of Columbia which specifically authorizes the United States District Court for the District of Columbia to issue *quo warranto* in the name of the United States on application of the Attorney General. Act of March 3, 1901, 31 Stat. 1189, 1419–20, District of Columbia Code (1951 ed.) § 16–1601; see *Newman* v. *United States ex rel. Frizzell*, 238 U. S. 537. The 1911 repeal of the *quo warranto* jurisdiction conferred by the Revised Statutes, together with the limited grant of such jurisdiction to the District Court for the District of Columbia alone, leaves no room for doubt that the district courts outside the District of Columbia have no *quo warranto* jurisdiction.

of these statutory provisions, however, justifies assumption of jurisdiction over the present proceeding.

28 U. S. C. 1651 (a), the "all-writs" statute, merely authorizes the federal courts to "issue all writs necessary or appropriate *in aid of their respective jurisdictions*" (emphasis added). The express terms of this statute thus make it plain that the statute does not confer any new jurisdictional authority; it simply confers ancillary jurisdiction to implement an already established jurisdiction. The statute, in other words, presupposes existing, competent jurisdiction and does not contain a new grant of judicial power. "While the section [*i. e.*, the "all-writs" section] augments the power of a court in cases of *existing jurisdiction, it in no wise expands or extends*" that jurisdiction (emphasis added). *Edgerly* v. *Kennelly*, 215 F. 2d 420, 422 (C. A. 7), certiorari denied, 348 U. S. 938; see, also, *Covington and Cincinnati Bridge Co.* v. *Hager*, 203 U. S. 109; *Knapp* v. *Lake Shore Railway Co.*, 197 U. S. 536; *Marshall* v. *Crotty*, 185 F. 2d 622, 626–627 (C. A. 1); *Petrowski* v. *Nutt*, 161 F. 2d 938 (C. A. 9), certiorari denied, 333 U. S. 842; *Amchanitzky* v. *Sinnott*, 69 F. 2d 97 (C. A. 2). Since petitioner does not and cannot point to any "existing" or "established" jurisdiction in aid of which it seeks to maintain the present *quo warranto* proceeding, its reliance on the "all-writs" statute is misplaced.

Equally inappropriate is petitioner's reliance on 28 U. S. C. 1345. That section confers jurisdiction on the district courts over "all civil actions, suits or proceedings commenced by the United States, or by

any agency or officer thereof." But this suit—which the United States Attorney General formally refused to institute (Pet. 22)—certainly is not one begun by the United States or by any of its officers or agencies.[3] Instead, as acknowledged at page 4 of the petition, this is an action "filed by the appellant State of Wisconsin" to test the legality of a federal regulation authorizing the First Federal to establish limited agency offices. While nominally filed in the name of the United States "ex rel. State of Wisconsin", there can be no doubt here that in essence this suit is not a suit by the United States but "in effect a suit by the State of Wisconsin." *First Federal Savings & Loan Ass'n* v. *Loomis*, 97 F. 2d 831, 834 (C. A. 7), certiorari granted, 305 U. S. 564, writ

---

[3] Since First Federal is acting as a corporation under the authority of the laws of the United States, rather than of Wisconsin, the only person legally qualified to challenge its status as a federal corporation is the Attorney General of the United States. 5 U. S. C. 309, 316; 28 U. S. C. 507; *United States* v. *San Jacinto Tin Co.*, 125 U. S. 273, 278–284; *Booth* v. *Fletcher*, 101 F. 2d 676, 679–682 (C. A. D. C.), certiorari denied, 307 U. S. 628. Certainly, the Attorney General of Wisconsin has no authority to maintain this proceeding in the name of the United States. *Confiscation Cases*, 7 Wall. 454, 457; *United States ex rel. West* v. *Doughty*, Fed. Cas. No. 14,986 (C. C. S. D. N. Y.). In point here is the observation of Mr. Justice Johnson in *United States* v. *Morris*, 10 Wheat. 246, 301–302, affirming Fed. Cas. No. 15,816 (C. C. D. N. Y.):

> * * * How, in fact, the name of the United States comes at all to be used in this cause, is to me a mystery. * * * That the name of the United States should be used against its will, and an attorney for the United States nominated by a judge, to act where the attorney of the United States refuses to act, and that without any authority by statute, I acknowledge has excited my surprise.

dismissed on motion of petitioners, 305 U. S. 666; see *State ex rel. Cleary* v. *Hopkins Street B. & L. Asso.*, 217 Wis. 179, 257 N. W. 684, affirmed, 296 U. S. 315. 28 U. S. C. 1345 is therefore inapplicable here.

Nor is there any conflict between the decision below and *Ames* v. *Kansas*, 111 U. S. 449. To the extent that the *Ames* case is relevant, it holds simply that a *quo warranto* action properly brought in a state court may be removed to a federal court if the other requisite jurisdictional conditions are met. The present case, of course, was not a removed case; Wisconsin sought to invoke the original jurisdiction of the federal district court. Moreover, as we have already shown, this case does not meet the requirements of the jurisdictional statutes relied on by petitioner here.

Similarly, *Grace Line* v. *Panama Canal Company*, 243 F. 2d 844, 857 (C. A. 2), pending on writ of certiorari, Nos. 251, 252, this Term, not cited by petitioner, poses no conflict with the decision below. The holding in that case—which we believe in any event to be incorrect—seems predicated on a suggested distinction between mandatory injunctive relief and the extraordinary writ of mandamus. Certainly, the prerogative writ of *quo warranto*, sought to be invoked in the present case, is outside the scope of the type of injunctive or equitable relief normally available in district courts.

2. The fact that the result in the present case is supportable on a ground completely independent

of the jurisdictional question constitutes, we submit, an additional reason for not resolving any asserted conflict here. On the merits, this case turns on the validity of the Federal Home Loan Bank Board's Regulation, 24 C. F. R. 145.15, which authorizes the federal savings and loan associations to engage in the type of limited agency operations in question here.[4]

---

[4] It is appropriate at this point to note that three types of local or decentralized operations away from the home office are recognized by the Board's Regulations governing federal savings and loan associations. 24 C. F. R. 145.14 deals with the first or "branch" office type. 24 C. F. R. 145.15 describes the other two types: the general agency office and the limited agency office, the latter being the type involved in the present instance.

A branch office furnishes comprehensive savings and lending services. It may transact practically all of the business conducted at the home or main office. 24 C. F. R. 145.14. Thus, a branch office may receive applications for savings share accounts, open and close such accounts, accept deposits for such accounts, and allow withdrawals. It may also perform all services available at the main office in connection with loan applications, payments, and repayments. The only function confined to the main office and not exercisable by the branch is that of loan approvals. 24 C. F. R. 145.14.

The general agency office may engage in all of the banking services available at a branch office except that "no savings accounts may be opened at any agency * * *." 24 C. F. R. 145.15. No branch or general agency office may be established by a savings and loan association without prior approval of the Federal Home Loan Bank Board. 24 C. F. R. 145.14 and 145.15.

No such approval is required for establishment of the limited agency office—the type of operation conducted by First Federal and challenged here. A limited agency office is "limited to the servicing of loans and contracts, or to the management or sale of real estate owned, or to any combination of such functions * * *." 24 C. F. R. 145.15, *infra*, p. 18. It is prohibited from performing all other banking or "savings" services available at the main, branch, or general agency offices.

Both courts below, as already noted, have recognized the validity of the Regulation (R. 67–68; Pet. 24). But even before those decisions, the power of the Federal Home Loan Bank Board to provide by regulation for establishment of branch offices had been explicitly sustained in uniform holdings of each of the three appellate courts passing on that question. *North Arlington Nat. Bank* v. *Kearny Fed. Sav. & L. Ass'n*, 187 F. 2d 564 (C. A. 3), certiorari denied, 342 U. S. 816; *First National Bank of McKeesport* v. *First Federal Sav. & L. Ass'n*, 225 F. 2d 33 (C. A. D. C.); *Springfield Institution for Sav.* v. *Worcester Fed. Savings & Loan Asso.*, 329 Mass. 184, 107 N. E. 2d 315, certiorari denied, 344 U. S. 884.

The Third Circuit's opinion in *North Arlington* flatly holds that a federal savings and loan association may establish branch offices under the Home Owners' Loan Act of 1933. 187 F. 2d 564, 565. In *Springfield Institution for Savings*, the Massachusetts court reiterated the view that the Act fully empowers the Home Loan Bank Board to provide for establishment of branch offices of savings and loan associations. 329 Mass. 184, 107 N. E. 2d 315. And in the *McKeesport* case, the Court of Appeals for the District of Columbia Circuit expressly adopted the "reasoning and conclusions" of the earlier holdings that the "Home Owners' Loan Act of 1933, as amended, authorizes the Federal Home Loan Bank Board to permit federal associations, regularly organized, to establish branch offices." 225 F. 2d 33, 35.

Since branch offices engage in broader and far more comprehensive operations than limited agency offices,

the decisions upholding the validity of branch offices necessarily sustain the validity of limited agency offices. As noted by the district court in this case, "the same reasoning and authority that established the power of the Board to create branches applies a fortiori with equal force and cogency to the Board's power in respect to the creation of agencies of limited function" (R. 65). Otherwise, as the court observed, there "would be a most curious result to find power on the major plane and deny it on the minor" (R. 65).

Petitioner's main argument on the merits, earlier in this litigation, has been based on Section 215.02 (20) of the Wisconsin statute, which prohibits state banking and savings institutions from operating agencies. But an identical argument was directly passed on in the *North Arlington* and *Springfield Institution* cases. In *North Arlington*, a New Jersey statute prohibited branch offices. In *Springfield Institution*, a Massachusetts statute prohibited them. In both cases, however, the court held that the limitations imposed on branch banking by the state statutes were inapplicable to federal savings and loan associations doing business in those states. 187 F. 2d 564 (C. A. 3); 329 Mass. 184, 107 N. E. 2d 315.

Wisconsin, of course, is free to adopt any policy it chooses with respect to agencies of state savings and loan associations. As to federal associations, however, Congress has specifically delegated the function of making that policy decision to the Federal Home Loan

Bank Board, not to the states (12 U. S. C. 1464 (a)). As stated in the *North Arlington* case:

> * * * Here is an area where the Board is given the duty and authority to make policy. It is supposed to find out what the practices of these institutions are and give primary consideration to the best ones.
>
> What is the practice with regard to branch offices? According to a committee report on a bill to amend the present act, only six states have statutes which prohibit the establishment of branch offices by building and loan associations. Thirteen states specifically authorize them and twenty-nine have not legislated upon the subject. Congress put the duty upon the Board to decide what was the best practice and to give consideration to it. The Board did so by authorizing branches under conditions set out in its Regulations. This, it seems to us, is a very strong argument for concluding that the authority to establish branch offices is vested in the Board, and by the very terms of the Congressional enactment. [187 F. 2d at 565–566.]

Similarly, the *Springfield* case recognizes a clear congressional purpose to make the Board's Regulations with respect to branches and agencies "of uniform application throughout the country", rather than to have them vary from state to state. 329 Mass. 184, 188–189, 107 N. E. 2d 315, 318; see *Franklin Nat. Bank* v. *New York*, 347 U. S. 373. Obviously, any attempt to engraft varying state limitations on these Regulations would frustrate this congressional purpose.

In short, the decision below is supportable on the ground that since the Regulation is plainly valid petitioner cannot make out a case on the merits. In parallel circumstances, this Court has refused to resolve an "asserted conflict" where, as here, the complaint cannot lead to ultimate relief or recovery. *Brooks* v. *Dewar*, 313 U. S. 354, 360.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

J. LEE RANKIN,
Solicitor General.
JOSEPH D. GUILFOYLE,
Acting Assistant Attorney General.
MORTON HOLLANDER,
Attorney.

FEBRUARY 1958.

APPENDIX

1. The Home Owners' Loan Act of 1933 (Act of June 13, 1933, 48 Stat. 128, as amended, 12 U. S. C. 1461, *et seq.*) provides in pertinent part:

> * * * That this Act may be cited as the "Home Owners' Loan Act of 1933."

DEFINITIONS

Sec. 2. [12 U. S. C. 1462] As used in this Act—

(a) The term "Board" means the Home Loan Bank Board.

* * * * *

(d) The term "association" means a Federal Savings and Loan Association chartered by the Board as provided in section 5 of this Act.

FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Sec. 5. [12 U. S. C. 1464] (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as "Federal Savings and Loan Associations," and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States.

* * * * *

(c) Such associations shall lend their funds only on the security of their shares or on the security of first liens upon homes or combina-

tion of homes and business property within fifty miles of their home office: * * *.

* * * * *

(d) (1) [12 U. S. C., Supp. IV, 1464 (d) (1)] The Board shall have power to enforce this section and rules and regulations made hereunder. In the enforcement of any provision of this section or rules and regulations made hereunder, or any other law or regulation, and in the administration of conservatorships and receiverships as provided in subsection (d) (2) hereof, the Board is authorized to act in its own name and through its own attorneys. The Board shall have power to sue and be sued, complain and defend in any court of competent jurisdiction in the United States or its territories or possessions or the Commonwealth of Puerto Rico. * * *

* * * * *

(e) No charter shall be granted except to persons of good character and responsibility, nor unless in the judgment of the Board a necessity exists for such an institution in the community to be served, nor unless there is a reasonable probability of its usefulness and success, nor unless the same can be established without undue injury to properly conducted existing local thrift and home-financing institutions.

* * * * *

2. The Regulations of the Federal Home Loan Bank Board, governing the operation of the federal savings and loan association, provide in pertinent part:

(a) 24 C. F. R. 145.13

Home office. The home office of a Federal association is the office established by such association's charter; such association shall be operated from its home office and all branch offices and agencies thereof shall be subject to

direction therefrom. A Federal association shall maintain at its home office a complete record of all business transacted at such office and control records of all business transacted at each of its branch offices and agencies.

(b) 24 C. F. R. 145.14

Branch office. No Federal association may establish or maintain a branch office without the prior written approval of the Board. Each application by a Federal association for permission to establish or maintain a branch office shall state the need for such branch office; the functions to be performed; the personnel and office facilities to be provided; the estimated annual volume of business, income, and expenses of such branch office; and shall be accompanied by a proposed annual budget of such association. Any business of a Federal association, except the approval of loans, may be transacted at a branch office, as authorized by its board of directors. A detailed record of all transactions of any branch office of a Federal association shall be maintained at such office and such control records as may be necessary for the proper conduct of such association's business shall be furnished by such branch office to its home office.

(c) 24 C. F. R. 145.15

Agency. Subject to prior approval by the Board as hereinafter provided, a Federal association may establish and maintain one or more agencies at which any agent of such association may transact its business to the extent authorized by its board of directors: *Provided,* That no loans may be approved and no savings accounts may be opened at any agency of a Federal association. Each application for approval by the Board of the establishment or maintenance of a place of business as an agency of a Federal association shall state the need for such agency; the functions to be performed;

the personnel and office facilities to be provided; and the estimated annual volume of business and expenses of such agency. A Federal association may, without approval by the Board, establish or maintain any agency the functions of which are limited to the servicing of loans and contracts, or to the management or sale of real estate owned, or to any combination of such functions; temporary or incidental agencies may likewise be established for individual transactions or for special, temporary purposes. An original record of all business of a Federal association transacted at any agency thereof shall be kept by such agency and such reports of business so transacted shall be made to a branch office or to the home office of such association as are required for the proper conduct and control of the association's affairs.